1932

G.F. 71 & 72.

Department of Land Revenue

OFFICE Board of Revenue

STATION Madras

Mis No. 3821

Dated 29-11-32

A 2473/32

To whom sent	Date	Initial
	Given for copying	
	Copied	
	Examined	
	Signed	
	Given for despatch	
	Despatched	
Pages in the file	Indexed	
	To be destroyed on*	

(SUBJECT.)

Village officers - (South Kanara) - Mangalore
Tr Mankinda and Perdushedde Vages.
Headman Registered minor. Permission
to join duty - Bara Shetty. Revision
Petition - Orders passed

*Not to be filled in in the case of permanent records.

6- AUG 1932

MEMORANDUM OF REVENUE APPEAL

In the Office of the Board of Revenue ,Chepauk,Madras.

Revenue Appeal No. of 1932.

Isara Shetty grandson of Jarumarla ,residing at Marakada village,S.Kanara ... Appellant.

vs.

Chikkaya Naika,residing at Malavoor village, South Kanara. ... Respondent.

The address for service of the appellant is that of his counsel Mr.P.S.D'Souza, Advocate,No.3 Vaniar Street, Georgetown, Madras.

The Appellant abovenamed begs to present this Memorandum of Revenue Appeal to the Honourable Members of this Revenue Board against the order of the District Collector of South Kanara in D.Dis.No.2020-32 dated 24th.day of May 1932 on the following among other grounds:

1. The order of the District Collector is contrary to law and the facts of this case.

2. The District Collector has erred in ignoring the claim of the Appellant to the Potailship as a registered holder as per order of the Revenue Divisional Officer dated 2nd.July 1914 in N.Dis.on C.No.1938/sup.14 dated 26-6-1914. Ae certified copy of the said order is filed herewith and marked A.

3. The District Collector has failed to note that the respondent was acting for the appellant during his minority and therefore as a deputy has no right to

oust the principal.

4. The District Collector has given undue importance to the fact that the respondent has put in several years of unsullied service . The appellant submits that any amount of service as a deputy cannot supersede the rightful claims of a principal and this legal aspect of the case has not been appreciated at all by the District Collector.

5. The Revenue Divisional Officer's order dated 2-7-1914 registering the appellant as a permanent potail not having been set aside and the respondent having acted only as a deputy on the strength of that order it is neither lawful nor equitable for the deputy to over-ride the just claims of the principal and the District Collector is wrong in passing a new order without setting aside the Revenue Divisional Officer's order dated 2-7-1914 which is still good for all purposes.

6. The District Collector over-looked the rights of the appellant who is a qualified person having passed all the necessary tests in the first class while the respondent has not yet qualified himself inspite of the order of the Revenue Divisional Officer dated 2-7-1914 wherein he was directed to qualify himself within two years from the said date. Moreover the respondent is not a resident of either the Marakada or the Padushedde village nor does he hold any property within these

two villages.

7. The District Collector is wrong in stating that the Appellant is not a man of substance. The Appellant is the eldest male member of the family which is governed by the Aliyasanthana law and his mother is the Kudthal-darthi (paltadar) managing the same property held by the previous potail Jarumarla and which property continued to be as security even during the minority of the appellant and the same property even now is held by the said family. It is also submitted that this property is inalienable as per deed dated 1st.April 1859.

8. The District Collector is not right in holding that South Kanara is a non-hereditary tract whereas the claim of the appellant for the potailship has been recognised by the Revenue Divisional Officer because the Appellant was the direct male descendant of the previous potail Jarumarla inspite of the Appellant being a minor at the time of Jarumarla's death thus establishing the hereditary right of the Appellant. The respondent is not at all related to the appellant or his ancestors.

9. The District Collector ought to have given notice to the appellant before setting aside the order of the Revenue Divisional Officer D.Dis.4566-31 passed on the 13th. February 1932 in favour of the appellant after hearing the vakil for the respondent. A certified copy of this order is filed herewith and marked ' B '. pp 13-15 CF

P. D'Souza

Counsel for the Appellant.

1A

4/

Memorandum of Revenue Appeal

Office of the Board of Revenue

Rev. Appeal No. of 1932.

Isara Shetty Appellant

vs.

Chikkaya Naika Respondent

Endt A 2473/32 dt 8/8/32

p.c Endt calling for C.F labels of the value of Rs 2-8-0 for the petit and enclosures Time till 17-8-32 Address p. 5 C.F.

8/8/32

8/8/32 DISPATCHED 8 AUG 1932

Grounds of Memorandum of Revenue Appeal. along with documents Nos.

(1) Dist. Collector's order d. 24-5-32
(2) Rev. Div. Officer's .. . 26-6-14
(3) 13-2-32
(4) One vakalat.

Mr. P.S.D'Souza,
Counsel for Appellant.

5

Appellant's **VAKALAT.**

In the Court of the Board of Revenue, Chepauk, Madras.

Revenue Appeal ~~SUIT-PETITION~~ No. _____ 19

BETWEEN

Isara Shetty ..... Appellant *Plaintiff / Petitioner*

AND

Chikkaya Naika ..... Respondent *Defendant / Respondent*

I, Isara Shetty, grandson og Jarumarla, residing at Marakada Village, South Kanara,

do hereby appoint and retain Mr. P.S.D'Souza, Advocate, 3 Vaniar Street, Madras, to appear for me in the above ~~Suit~~ Appeal Petition and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application for execution of any decree or order passed therein I empower my ~~Vakil~~ counsel to appear in all miscellaneous proceedings in the above suit or matter till all decress or orders are fully satisfied or adjusted and to obtain the return of documents and draw any moneys that might be payable to me in the said suit or matter.

In witness whereof I have hereunto set my hand this 27th day of June 1932.

accepted

Date 27-6-1932

P. S. D'Souza

27-7-932

Eshwara Shetty

The address for service of the said Counsel

3 Vaniar Street,
G.T., Madras.

Signed before me by the executant this 27th day of June 1932. The contents of this vakalat having been translated to the executant in Kanarese and admitted by him to be correct.

M A Sahwar
Municipal Commissioner

6

In the Court of the Revenue Board

At
Chepauk
Madras

Rev. Appeal No. ____ 1982

Vakalat produced on behalf of The

Appellant

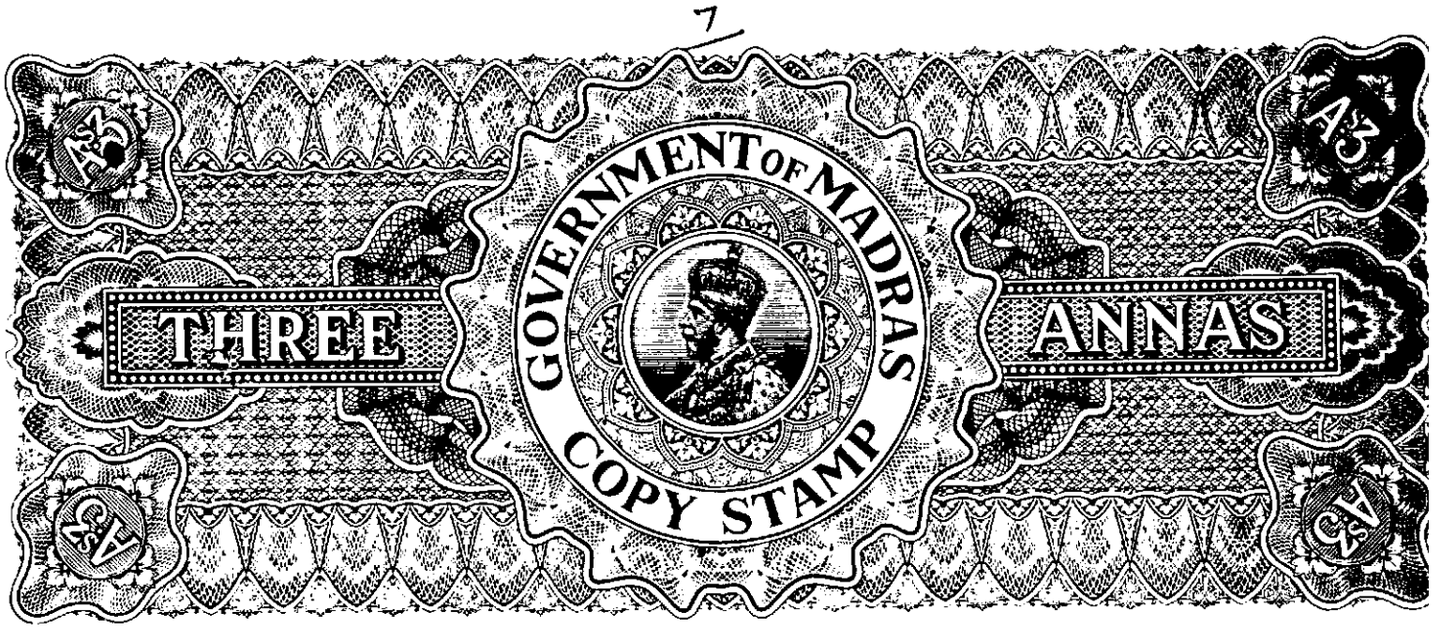
on

P. S. Sarma

Advocate

Shree Ramakrishna Press, Mangalore.

7



E

D Dis: No 2020-32

Proceedings of the Collector of South Kanara, Mangalore

Dated 24th May 1932

Present: Khan Bahadur J Hussain Bunal Esq

Village officers - Mangalore Taluk - Ekarkada and Padushedde Villages - Headmanship - permanent appointment - Appeal (petition) petition of Chikkayya Naika - orders passed.

(1) Petition dated 22-2-1932 of Chikkayya Naika, Patail of Ekarkada and Padushedde villages, residing in Ekarkada village, Mangalore Taluk to Mangalore R D vs L Dis 934-32 dated 10-3-1932 and D Dis 1362-32 A dated 26-4-1932 and

(2) The connected records

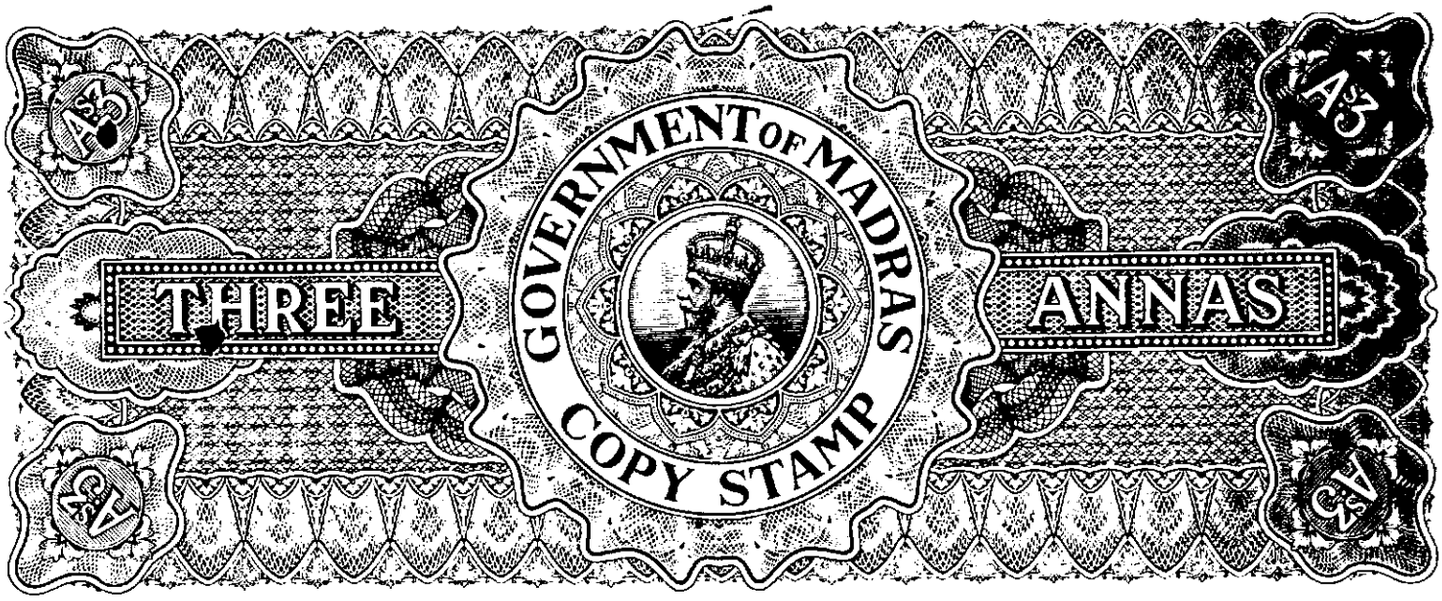
The respondent is not a man of substance while the appellant has property assessed at Rs 132-7-0 in the village. This dispute is a non-hereditary trust and it is also desirable that for posts of village headmen, owner of property should always be selected, as far as possible. Add to it the appellant has had long unsullied

1150.

28. 5. 32 -

Don Mir. Reo.

A. B. Segura



service as acting Patail of the Village was questi
It seems therefore equitable that he should not b
disturbed. For the result, the R D O's Order allowing
the respondent to enter upon his duty as Patai
is set aside and the appellant appointed as
Patail of Elvenkada and Padushekha Villages

(Sd) G Hussain

R.C. 5-32 Collector

Issued on

(True copy on two sheets only

Application No. 154 for copy received on 13.6.32

Stamp papers called for " —

Stamp papers produced " 15.6.32

Copy ready " 16.6.32

Copy delivered or sent by post to " 17.6.32

Deputy Collector

Total words = 210

Copied by K in 1/2 hr

1/1/32

10

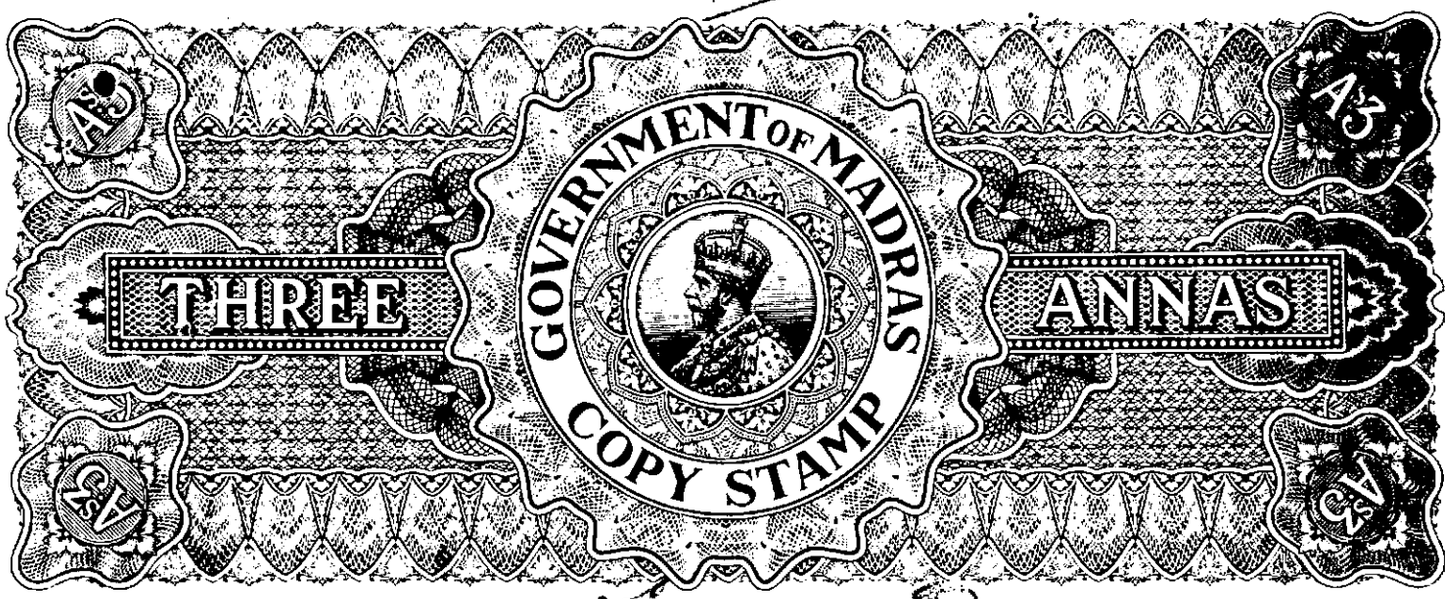
1151.

28.5.32

Dona Maria Pia

A. de Segueira

13



D. Dis 4566-31. B

Proceedings of the Revenue Divisional officer, Manga Division, dated 13th February 1932.

Mr. R. Ry R. Subrahmania Aiyyar Avl B.A. Revenue divisional officer, Mangalore

Village officers - Head man - Mangalore Taluk - Marak and Padushedde villages - Isara Shetty - Permanen headman - directed to join duty.

Heard Mr Punja for Chikkaya Naika the presen acting potail of Padushedde and Mr Talwar for Isara Shetty the registered minor who has no attained majority.

Read also the report of the Tahsildar

Order

It is no doubt true that Chikkaya Naika has been acting potail for over 12 years. But I cannot keep out the registered holder merely because he has no lands in the village. He was qualified himself for the post and I therefore direct him to enter upon his duty as potail. The acg: potail should be relieved at once.

1332

6.6.32

Q.L. 9314 : 902 . S. Rov

A. P. Siqueira

14

15

GOVERNMENT OF MADRAS
COPY STAMP
THREE ANNAS

Sd/ R. Subrahmanya Aiyyar
13.2.1932. Revenue Divl officer

Total words 151 -

& True copy on two sheets

Application No. 233/32 for copy received	on 4.6.32
Rs. Mr. M.A. Jalwar amt. charges called for	" 13.6.32
Stamp paper produced	" 13.6.32
Copy ready	" 13.6.32
Copy delivered or sent by post to	" 13.6.32

Compared & Copies by me,

Manager Revenue Divl Office

Head Clerk,

COLLECTOR
SOUTH CANARA

1333
6 - 6 - 32
Vol VIII - 902 - S. Rev
A. P. Siqueira

16 -

17 A2514 of 25

10 AUG 1932
REVENUE AND SETTLEMENT

F. 2473/32

Isara Shetty — Appellant

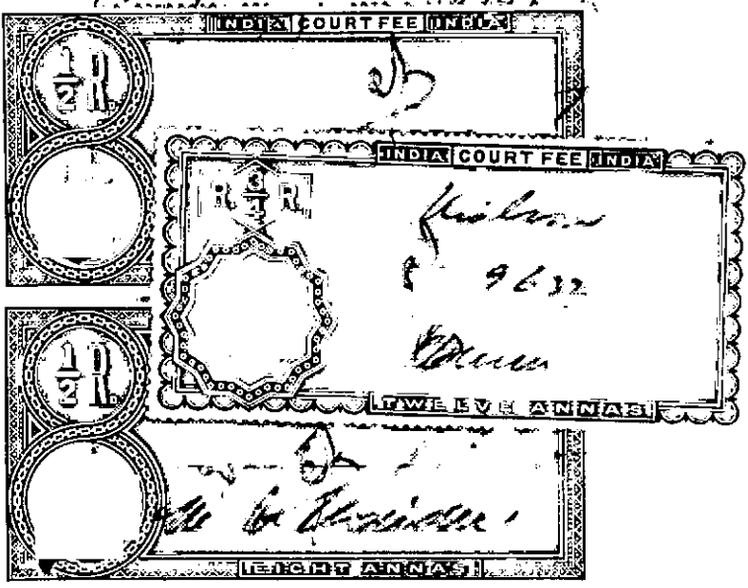
vs

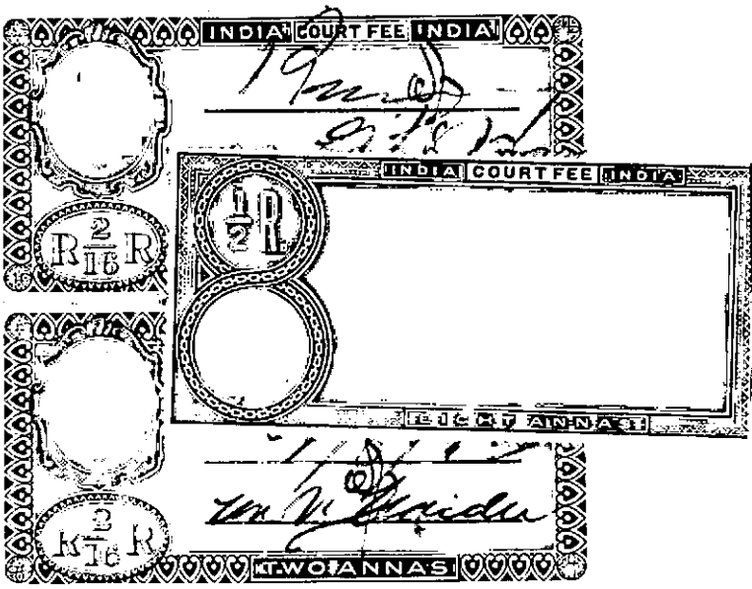
Shikkaja Naika — Respondent

Court-fee stamps of Rs 2/8/- herewith produced by Appellant as per requisition

1/8 Pleader
10/8/32

A. S. D'Souza
Ct-for Appellant
10/8/1932





19

Subject.

R. F. XXII-A-19- 30,004--2-2-31 (6)

FROM MEMBER. Village officers - (South Kanara) - Mangalore Markeda and Padushedde Urs - Headman Registered minor - permission to join duty Refused - Isara Shetty - Revision Petition - Records called for

READ AGAIN B. P. No. _____ ,dated _____ 193

" " " _____ , " _____ 193

READ ALSO :--

Register No. _____ From the A-2473/32, No 1-3 CF, dated Q 193

" " _____ , " " _____ , _____ , " _____ 193

" " _____ , " " _____ " " _____ , " _____ 193

RESOLUTION. Ref No. A-2473/32/1 dated 19-8-32 193

Forwarded to the Collecto of South Kanara for submissi of the records with any remar which he considers necessar regarding the allegations in the petition which are not clearly dealt with in the records.

K.S.
17/8/32
No 18832

DESPATCHED
22 AUG 1932
22/8/32

To
The Collector of
South Kanara
with petition and
enclosures (to be returned
with reply.
(A) 1-18 CF.

Remind Coll 17-10-32

21-es QP9 A 3003

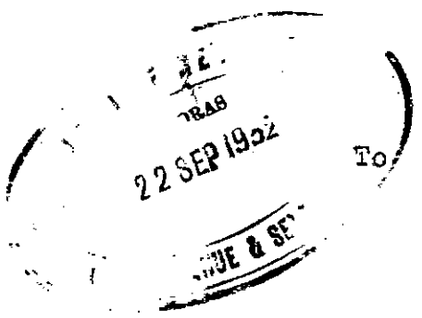
D.Dis. No. 7739-32. South Kanara Collector's Office,

Camp Mudabidri, dated 18-9-1932.

From

Khan Bahadur J.Hussain, Bar-at-law,

Collector of South Kanara.



To

The Secretary to the Board,

Land Revenue and Settlement,

Madras.

Sir,

Village Officers - (South Kanara) - Mangalore Taluk - Karkada and Padushedde villages - Headman - Registered Minor - permission to join duty - refused - Isara Shetty - Revision petition - report submitted.

p 19 of Board's Reference A.No. 2473-32-1 dated 19-8-1932.

---

pp 1-3 of I resubmit herewith the petition of Isara Shetty together with its enclosures received with the Board's

p 19 of reference quoted above.

2. The facts of the case are that Jaru Karla was the last permanent holder of office. He was dismissed from service in 1914, the petitioner being registered as heir to the office and the respondent appointed as acting Potail

p 11 of The petitioner was born on 6-9-1909 and thus attained

pp 73, 74, 04 (P) majority on 6-9-1927. He passed the Potail's tests at the

p 71 of (P) examinations held on 1-10-1928 and 1-10-1929, his certifica being dated 22-1-1930. But he never cared to join duty bef the expiry of three years after attaining majority. It is only at the Jamabandy of Fasli 1340 held in the beginning o

p 65 of (P) 1931 that the Revenue Divisional Officer called for a repor from the Tahsildar in the matter of the registered minor

p. 87 of (P) and on 13-2-1932 directed him to enter upon his duties as Potail. Therefore on the analogy of the example quoted in

p 86 & 04 Vol III B.S.O.154 (19.) appellant was bound to join his appointment within three years of attaining majority, as there was more sufficient interval for doing so between the date of his

completing the tests that is 1-10-29 and the date of completion of three years after attaining majority - that is, 6-9-30. p 7107 (P)

3. In addition to the reasons stated in para 2, what ----- chiefly weighed with me in coming to the decision I did come to was the question of property qualification. It is significant that the petitioner does not mention specifically what property he or his family owns in the village Enquiry has shown, ----- however that holding No.56 of Markada village with an assessment of Rs. 20-1-0 stands registered in the name of the petitioner's mother. This property is, according to a registered agreement, divided between the petitioner's mother and two other members of the family and the petitioner's mother's share which is ---- worth about Rs. 1260/- is encumbered to the extent of Rs. 800/-. The petitioner has thus no property worth the name and there is no provision which permits the demanding of security from him for the due discharge of his responsibility in the matter of Government money that has necessarily to pass through the hands of a Potail. On the other hand, the respondent has property in his own name paying an assessment of Rs.132-7-0, which is worth more than Rs.15000/- with a liability of Rs.4500/-. In addition to this, his family has property, paying an assessment of Rs.1200/-. The petitioner's allegation that the respondent has no property or residence in any villages of the Tarf is not true. In Markada - one of the villages of his Tarf - he has property paying an assessment of Rs.12-13-0 and also maintains a residence. The respondent has thus a far better financial status than the petitioner. pp 53-58 p 63-64 of (P) p. 57 of (P) p. 57 of (P) para 6 on p 2 of

4. This District is a non-hereditary tract (B.S.O.156) and the provisions of Act III of 1895 do not strictly apply here (Please see B.P.Misc.No.2733, dated 11-9-1929). Further under B.S.O. 156 (11) though poverty is not a legal disqualification it has been deemed desirable that village headman should be men of some property and that for non-hereditary posts men of property should always be selected, if possible. In this District it has also been the practice generally to prefer men p 869 of Vol III flag (K) p 869 of Vol III

having property to those having little or none, though the latter have a quasi-hereditary claim to the office. (Please see Mr. Wells' decision in the Bare Potailship case disposed of in this office D.Dis.No.1403-30, dated 11-7-1930).

Hag (S)

5. In this connection, I may be permitted to say that for kist collection men who have no financial status and ---- influence do not count in the villages. The Tahsildar was also of opinion that it would be unsafe to permit the ------- petitioner to join the post unless he furnished adequate ---- security. The latter is out of question in view of B.P.Mis. No.445, dated 17-2-1927 and B.P.Routine No.1611, dated ------ 20-4-1923. In these circumstances and from the point of view of Government interests I considered it very undesirable to permit the petitioner to join duty. I therefore preferre the respondent who has also to his credit long unsullied service as Potail of the villages, to the appellant and set aside the Revenue Divisional Officer's order.

p 64 of (P)

Hag (T) T.S.I.D

pp. 13-15 of

6. The petitioner's allegation in para 6 of the ------ petition that the respondent has not qualified himself is true. He was originally appointed in 1914 on condition of passing the tests within two years. The Tahsildar reports that he did not, however, pass the tests and the matter was apparently lost sight of. Though he has not passed the test the fact that he has been allowed to continue in office and that he has discharged the duties satisfactorily without being found fault with during the last 17 years shows that he is sufficiently educated and quite capable of performing the duties of a village headman. In fact, his fitness has stood the test of actual service all these years.

p 2 of

para 2 on p 63 of (P)

7. The records noted in the margin are enclosed.

(P) (1) Mangalore Revenue Divisional officer's D.Dis.4566-31.
(2) ← (2) Huzur D.Dis.No.2020-32.
(S) ← (3) " " 1403-30.

Syed-U-Nabud
for

For Collector.

KSR
20.9.32

R. F. XXII-A-19--30,004--2-2-31 (6)

Subject. -

F(IEMBER. Village officers – (South Kanara) - Mangalore Tk - Markada and Padushedde vges - Headman Registered minor - permission to joen duty - Dsara Shetty – Reversion Petition - Notice to the Counter petitioner

READ AGAIN B. P. No. _____ ,dated _____ 193

" " " Read "M's name _____ 193

READ ALSO :--

Register No. _____, From the A 2473/32 p/p No. 1-3 cf dated Q 193

Bd's Refee A 2473/32/1 of 19-8-32 p. 19 cf Q

" " _____, " " A. 3003/32 p/p 21-2,3 cf Q 193

" " _____, " " _____ " " _____, " _____ 193

RESOLUTION. Refee A. 2473/32/2 No. _____, dated 4. 10. 193

RT of 5/11/32 p/p
ICS
5/11/32 AK 7/4

This is a case of an appointm of a headman in a non hereditar tract. The Board has perused the records of the case. ~~In this case~~ Dsara Shetty, the petitioner, was registered for the office and claimed he duly qualified himself and the Rev divl officer appointed him to the office ~~and allowed him to enter upon the~~ On appeal by the deputy, the Collect set aside the Divl. officer's order ~~allowing the registered minor to enter upon the duties of the office~~ on the ground that he had no propert Though a non hereditary district registration of minors is allowed

in the South Kanara Dt. and so
long as it is allowed the procedure
followed in the hereditary tracts
should be followed by analogy.
In hereditary tracts the claims
of the heir of the last office holder
have to be recognised whatever
his property qualifications may be
In this case the petitioner who was
the registered heir qualified
himself and has some property.
He has not been tried and found
wanting and it was not his fau
if he was not called on to join duty earlier
further the Collector appointed
peranmenlty an unqualified ma
when a qualified man was unavailable.
In the circumstances the Boar
considers that the Collector
exercised his discretion wrongly
and therefore proposes to cancel
his order D. Dis 2020-32 of 24-8-32 pp 7-9 ct
and restore the order of the
Rev. Divl. Officer D. Dis
-4200-31 of 13-2-32. The pp 13-15 ct
Collector is requested to call
upon the counter petitioner to

P.T.O

shower cause in writing within one month why the proposed order should not issue and to submit it with his remarks

KS
1.10.32
[illegible]
3.10.32

[illegible]
3-10-32

[illegible]

To The Collector of South Kanara
(with records returned (to be resubmitted with reply)

(B) list at page 23 c/f

[illegible]
5/10/32

[illegible]

DESPATCH
6 OCT 1932

[illegible]

29

RP 13

D. Dis. 9202--32.

South Kanara Collector's Office,

Mangalore, dated 15th November 1932.

A 3835

From

E. M. Gawne, Esq, I.C.S.,

Collector of South Kanara.

To

18 NOV 1932

The Secretary to the Board,

Land Revenue & Settlement,

M a d r a s.

S i r,

Village Officers--Headman--Mangalore Taluk--Marakada and Pudushedde villages--Petition of Counter petitioner Chikkayya Naik--Submitted with remarks.

bb 25-27 cf

Ref: Board' reference No.A--2475--32--2, dated 4th October 1932.

---

bb 31-37 cf

I submit herewith the petition dated 4th November 1932 of Chikkaya Naik received in response to the notice issued as directed in the Board's reference.

2. The records connected with the dismissal of Jaru Marla and the registration of Isara Shetty referred to in paragraphs 1 and 2 of the petition have been destroyed.

b 3 cf

3. The other allegations raised by the counter-petitioner have already been dealt with in this office letter D. Dis.7739-32 dated 18th September 1932.

bb 21-23 cf

bb 31-33

4. In regard to paragraph 3 of the petition, S. 10 (5) of Madras Act III of 1895 refers to the minor remaining disqualified for 3 years after attaining majority and not to his failure to join duty within that period.

5762 cf Madras Code vol. 5

Your obedient servant,

Gawne

Collector.

Before the Honourable the Board of Revenue,

Thro'

The Collector of South Kanara,
MANGALORE.

Isara Shetty, son of Monu Shetty, residing in Markada Village, Mangalore Taluk.) .... Petitioner.

versus

Chikkaya Naik, grandnephew of Kanthappa Shetty, Potail of Markada and Padushedde Villages.) ... Counter-Petitioner.

Humble representation of the abovenamed Counter-Petitioner in the matter of the revision petition to the Board of Isara Shetty, son of Monu Shetty of Markada Village, dated 4th November 1932

In obedience to the Collector's order R.O.C.A1-9202 32 dated 10th October 1932, the Counter-Petitioner named above most respectfully begs to represent as follows:--

1. That the office was last held by one Jaru Marla, who was dismissed from service for a serious fault, that the Board's Petitioner was registered as minor and that the Counter Petitioner was appointed to act as Potail.

2. The Counter-Petitioner begs to submit at the outset that the registration of the Board's Petitioner as the minor heir was irregular as no minor could be so registered under the rules in a case where the last holder is dismissed from service.

3. Apart from that the Petitioner failed to enter upon his duties within three years after attaining majority

and the Divisional Officer was wrong in thrusting the office upon the Petitioner after he attained the age of 21 years when he never applied for it.

4. The Board's Petitioner is a man of no property and is heavily involved in debts.

5. The Board's Petitioner's family property known as "Pavanje Guthu" property has been sold to the Counter-Petitioner's family by the predecessors-in-interest of the Board's Petitioner, who is onlv a tenant in a small holding

6. When the family property of the Board's Petitioner was sold, only 7 muras of seed area was retained for the maintenance of the executants. This small bit of property is partitioned into three shares and the Board's Petitioner's branch consists of nine members.

7. The Board's Petitioner has thus practically no property whatever and is one who has no influence in the village. Besides, he is a spendthrift and is heavily in debts. The Counter-Petitioner therefore ventures to submit that the Board's Petitioner is unfit for the post and that the Government's interests will not be secure in his hands.

8. In the sale deed dated 21-11-1883 by the predecessors-in-interest of the Board's Petitioner, they have renounced all their rights not only to the property but also to honours, etc. of the family. The Potailship is only a privileged honour.

9. The Board's Petitioner was never earnest in taking up the office and in fact he never applied for it.

He is now set up by other persons inimically opposed to the Counter-Petitioner in order to harass the latter.

10. The Counter-Petitioner has property paying an assessment of Rs.132-7-0 in his own name, which is more than sufficient security against the Government interests being jeopardised. Besides he is the eldest male member of a family which pays an assessment of about Rs.1,200/-. He has loyally and faithfully served the Government for the last 16 years without let or hindrance from any body. Though he has not passed the Village Officers' Tests, he is fully acquainted with the duties of the Potail, which he has discharged to the entire satisfaction of his superior Officers. The very fact that he has never been found fault with in the discharge of his several duties is sufficient proof of his possessing literary qualification and his fitness to hold the office. Further the Counter-Petitioner begs to assure the Board that in case the Board is of opinion that passing the Tests is essential, he is prepared to appear for any oral or written test and he is confident to get through the same without much difficulty as he has long experience.

11. The Counter-Petitioner submits that it would be very hard for him that he should now be asked to vacate the office and thus lowered in the eyes of the villagers after having occupied the position of headman and served the Government faithfully for over 16 years, in order to make room for a person who has neither property nor influence in the village and whose predecessor's service was tainted.

12. The Counter-Petitioner would also submit that in this District there are several cases in which the mere hereditary right was not made the sole creterian but was passed over in favour of men having property and status in the village.

37

13. The Counter-Petitioner therefore prays that the Honourable the Board may, on a kind consideration of all the above facts, be graciously pleased to uphold the Collector's order D.Dis.No.2020-32 dated 24th May 1932 and reject the Board's Petitioner's revision petition.

pp 7-9cf

For which act of kindness and justice the Counter-Petitioner shall ever be grateful.

4-11-32

39

List of records sent with Collector's D.Dis.9202-32, dated 15-11-32.

---

1. Mangalore Revenue Divisional Officer's D.Dis. 4566/31.
2. Collector's D.Dis.No.2020/32
3. Do D.Dis.No. 1403/30.

dd 16/11/32

Received the records specified above

Qe

16/11/32

Senior Suptdt

To

The Collector

South Kanara

IC

22/11/32

Subject.

R. F. XXII-A-19—28,004—15-3-32 (

FOR MEMBER. (South Kanara) - Mangalore

Tk- Markada and Pudushedde Uyes - Headma
Registered minor - permission to join duty -
Isara Shetty - Revision Petition - Orders
passed

READ AGAIN B. P. No. _____, dated _____ 193

" " " _____, " _____ 193

READ ALSO :—

Register No. _____, From the A. 2473/32 pp, /No3 ct, dated Q to Pres 193
Bd's Ref A 2473/32/1 of 19-8-32 p19 ct
" " _____, " " A 3003/32 pp 21-23 ct, " _____ 193 Q
Bd's Ref A 2473/32/2 of 4-10-32 pp 25-27 ct to Colle
" " _____, " " A 3835/32, p 29 ct, " _____ 193

RESOLUTION. Mis No. 3521 dated 29.11.32 193

This is a case of an appointment of a headman in a non hereditary tract. The Board has perused the records of the case. Isara Shetty, the petitioner was registered for the office, and he ~~having duly~~ qualified himself, the Rev. Divl. Offr appointed him to the office. On appeal by the deputy, the Collector set aside the Divl. Officer's order on the ground that he had no property. Though a non hereditary

hereditary district registrar of minors is allowed in the South Kanara Dt and so long as it is allowed the procedure followed in hereditary tracts should be followed and in hereditary tracts the claims of the heirs of the last office holder have to be recognised whatever his property qualifications may be. In this case the petitioner who was the registered heir qualified himself and has some property. He has not been tried and found wanting and it was not his fault if he was not called on to join duty earlier. Further the Collector appointed permanently an unqualified man when a qualified man was available. In the circumstances the Board considers that the Collector exercised his discretion wrongly. The Board has issued a notice to the counter petitioner and

considers that his objects are untenable. The Board therefore cancels the Collector's order D. Dis 2020 of 32 & 24-5-32 and restores the order of the Rev. Divl. officer D. Dis 4566-31 & 13-2-32

pp 7-9 cf

pp 13 15 cf

2) The petitioner is referred to the Collector of South Kanara for orders on his petition.

K.S.
25/11/32

98 11 32

To
The Petitioner
M. R. Ry
Isava Shetty
C/o his Counsel
Mr. P. S. D'Souza
3 Vanian Street
G.T. Madras
with enclosures returned
Ⓐ pp. 11-12; para 2 only

To The Collector of
South Kanara
with records returned.
Ⓑ
Ⓑ List at page 39 cf

Note File.

Village Officers - (South Kanara) - Mangalore Tq - Mankoda and Padushedde Vges - Headman - Registered minor - permission to join duty - Isara Shetty Rev. Con Petition.

A. 2473/32 pp. 1-3 cf

To A.S.

Non hereditary and non statutory

2) No second appeal lies - The revision petition is in time

3). Please see the orders of the Rev. Divl. officer and the Collector.

pp 13-15 cf. The petitioner was registered for the

pp 7-9 cf headman's office and the counter petitioner

p 11 cf was appointed as the deputy on his

do. behalf Vide Rev. Divl. officer's order of 2.7.14

The petitioner attained majority, qualified himself and claimed the

p cf office. The Rev. Divl. officer permitted him to enter upon the duties considering the fact that he cannot be kept out of the office even though he had no lands in the village. The deputy moved the Collector who cancelled the orders of the Rev. Divl. officer considering

p. 7 cf that the district is a non hereditary one and that the counter petitioner had some property while the petitioner has

A S (C.R)

not a man of substance

4. The counter petitioner was only a temporary man appointed to act till the minor attained majority. He has no claim to the office. Though a non-hereditary district, the registration of minors is permitted in the South Kanara Dt. When once a minor is registered for an office, it means that his claim to the office is recognised and he must be allowed to join the office as soon as he attains majority and qualifies himself. This is what the Devi officer did as the petitioner attained majority and qualified himself. His order is correct. The Collector cannot refuse permission to enter upon the duties, simply because he has no property. Of course property qualification is considered in non hereditary districts but it cannot be insisted upon in this case as the petitioner was registered for the office in 1914. The order of the Collector is wrong. Further the petitioner alleges that he has some property and that the counter petitioner has no property in the two villages. He also urges that the counterpetitioner remained unqualified in spite of the order of the

p. 11 cl-

bb. 13-15 cl-

pp 7-9 cl

para 7 onp. 3 cl-

para 6 onp 2 cl-

para 6 onp 2 cl-

Rev. civil. officer. In the circumstances the records of the case may be called for and the Collector asked to send a clear report on the allegations in the petition

KS
12/8/82

TO A S

Draft submitted.

KS.
17/8/1882

M2
S
A.S. (L.R)

TO A.S.

The Collector has submitted the records of the case. The petitioner's main contentions are that he was registered for the office, that he qualified himself by passing the tests, that the question of experience of the counter petitioner should not be taken into consideration as against him who was only register for the office and cannot be expected to have previous experience, and that the counterpetitioner, who worked as a deputy for him, should not be allowed to override his claims.

p. 2 cf

2) Please see the notes on pp 1-2 N.F.

The reasons for the Collector's interference are

(i) that the minor registered for the office kept quiet without claiming the office after attaining majority and passing tests, para 2 on pp 21-22 Cf

(ii). that the minor has not ~~work~~ sufficient property; para 3 on p 22 cf

(iii) that the Dt. is a non hereditary one and para 4 on pp 22-23 Cf

(iv). that there is no rule or law under which security could be demanded from the person who has no property. para 5 on p 23 cf

(3). As to point (i) it is submitted that it is the duty of the Revenue Officers to appoint the minor on attaining majority. In this connection attention is invited to section 10(5) of Act III of 1895. Though the tract is not governed by statute, by analogy this section maybe applied as the registration of minors is permitted in the South Kanara Dt. The words used in the section are "he shall be appointed thereto". The petitioner need not claim the office. He has only to qualify himself within 21 years i.e before 6-9-30 in this case: The Collector also quotes the analogy of B.S.O. 154 (19). This p. 762 of Madras Code Vol II

does not appear to be correct as this paragraph does not apply to this case

(4) Point (iv) As regards property the counter petitioner has ~~got~~ better

p. 869 of vol III better qualifications. B.S.O. 15 s. (11) says that if the next heir to a hereditary post of headman through a man of no means, is otherwise qualified he must be appointed. The office in question is no doubt non hereditary but as the registration of minors is specially allowed in this district and as the petitioner was already registered for the office the hereditary nature of the office was accepted. It is also true that for non hereditary posts men of property should be selected, if possible. The words "if possible" are important in this case. The question for the decision of the Board lies between two persons - one who was already registered for the office and who qualified himself but who has very little property and the other who was only appointed to act during the minority of another person subject to the condition of passing the tests in two years and who

never passed the tests but all the same worked for about 17 years and has sufficient property

5) As regards the question of security it is clear that it cannot be demanded but it is open to the Collector to punish at any time a person without property if he is found to misbehave. (T)

For orders.

I.C.B. 26/9/32 The tract is non-hereditary and Act III of 1895 does not strictly apply to the case. The legislature seems to have slept over his rights for 2 years after attaining majority. The Collector has appointed the respondent in the interests of Govt. No second appeal lies. It seems unnecessary to interfere with the Collr's order. by 27/9/32 The Collector has given sufficient reasons for his order. p 23 cf.

In effect the Collector's order sets aside the Dist. officer's order of 2-7-14 registering the petitioner as permanent patail of the village. So long as the registration of minors is allowed in the South Canara district the provisions in Act III of 1895 should be applied. analogous

Under this Act the claims of the last office holders heir have to be recognized whatever his probable qualifications may be: the p 16 cf.

petitioner who was the registered heir has qualified himself and has ~~been~~ proved ~~the~~ she has not been tried and found wanting. It was not his fault if he was not called on to join the past earlier. The C.O. is not qualified. In these circumstances the collector was not justified in rejecting the claims of the petitioner which were recognized in 1914 and confirming the unqualified who is a stranger, as deputy for the past.

The Ch order is clearly wrong. A minor, if he qualifies, must be entitled to succeed to his property in hereditary tracts. In non-hereditary tracts the same procedure is followed as in the case of a major. Further the C appointed is permanently an unqualified man while a qualified man was available. He exercised a wrong discretion in doing so. This order is reversed & that of the R.D.O. restored.

I think that, our equity, A.S. is right.

Ahd/29.9.32.

No 2.

[a.S:- I meant to say, but forgot to, over the other S. Kan. case yesterday, that office must get the 1899 G.O. about registering minors in S. Kan. & take a copy for stock file. Pl. send to the R.O. & ask this done.]

Draft. Get this order of 1899 from R.D.

P.T.O.

To A.S.

A.S (L.R)

Draft Submitted

2). A telephone message is also putup for approval with reference to the Secretary's orders.

KS 1.10.32 by M.K.S

To A.S. Secretary's order on p. 7 N.F.

B.P. 105 Mis dy 11-1-29 has been received from the Madras Record office (N) A copy of the B.P together with a copy of the Collector's letter is got typed and has been placed ~~in the places~~ in the stock file "Village officers - Appointments".

KS 13/10/32 by B.W.N.

Right

Bds Ref A 2473/32/2 dy. 4-10-32 pp 25-27 cf

A 3835/32 p. 29 cf.

M2 S A.S (L.R)

To A.S.

Please see the statement of the counter petitioner. His objection are not serious and no new point has been raised. The counter petitioner ~~requests~~ requests that he may be given the benefit pp 31-37 cf p. 35 cf

P.T.O

of the oral test. The question of giving the benefit of the oral test does not arise because the Board proposes to appoint the minor who is qualified registered for the office. In the circumstances the Board's proposal order may be issued.

24.11.32 KS. 22/11/ 11 M

24.11.1932

24.11.32

TO AS

Draft submitted

KS. 25/11/32 11 M

Draft not found by the Draftsman 26.11.32

To file

Returned 26.11.32

Telephone Message

From

Asst. Secretary
Board of Revenue
Land Rev. & Settlement

To

The Curator
Madras Record Office
Madras.

Sir,

Please send B. P. No 105 Mis dated 11-1-1829. as it is required for reference in C. No A 2473/32

3-10-32
Asst. Secretary.

ICS.
1.10.32

Acknowledged the receipt of the B. P.

ICS.
9.10.32